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REFERENCE TITLE: solar energy equipment; taxation

State of Arizona
House of Representatives
Forty-seventh Legislature
First Regular Session
2005

HB 2374

Introduced by
Representatives Mason: Downing

AN ACT

AMENDING SECTIONS 15-2011, 15-2031, 34-452, 42-14155, 43-222, 43-1021 AND 43-1083, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1083.01; AMENDING SECTION 43-1121, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1182; RELATING TO SOLAR ENERGY EQUIPMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-2011, Arizona Revised Statutes, is amended to
3 read:

4 15-2011. Minimum school facility adequacy requirements:
5 definition

6 A. The school facilities board ~~shall~~, as determined and prescribed in
7 this chapter, **SHALL** provide funding to school districts for new construction
8 as the projected number of pupils in the district will fill the existing
9 school facilities and require more pupil space.

10 B. School buildings in a school district are adequate if all of the
11 following requirements are met:

12 1. The buildings contain sufficient and appropriate space and
13 equipment that comply with the minimum school facility adequacy guidelines
14 established pursuant to subsection F of this section. The state shall not
15 fund facilities for elective courses that require the school district
16 facilities to exceed minimum school facility adequacy requirements. The
17 school facilities board shall determine whether a school building meets the
18 requirements of this paragraph by analyzing the total square footage that is
19 available for each pupil in conjunction with the need for specialized spaces
20 and equipment.

21 2. The buildings are in compliance with federal, state and local
22 building and fire codes and laws that are applicable to the particular
23 building. An existing school building is not required to comply with current
24 requirements for new buildings unless this compliance is specifically
25 mandated by law or by the building or fire code of the jurisdiction where the
26 building is located.

27 3. The building systems, including roofs, plumbing, telephone systems,
28 electrical systems, heating systems and cooling systems, are in working order
29 and are capable of being properly maintained.

30 4. The buildings are structurally sound.

31 C. The standards that shall be used by the school facilities board to
32 determine whether a school building meets the minimum adequate gross square
33 footage requirements are as follows:

34 1. For a school district that provides instruction to pupils in
35 programs for preschool children with disabilities, kindergarten programs and
36 grades one through six, eighty square feet per pupil in programs for
37 preschool children with disabilities, kindergarten programs and grades one
38 through six.

39 2. For a school district that provides instruction to up to eight
40 hundred pupils in grades seven and eight, eighty-four square feet per pupil
41 in grades seven and eight.

42 3. For a school district that provides instruction to more than eight
43 hundred pupils in grades seven and eight, eighty square feet per pupil in
44 grades seven and eight or sixty-seven thousand two hundred square feet,
45 whichever is more.

1 4. For a school district that provides instruction to up to four
2 hundred pupils in grades nine through twelve, one hundred twenty-five square
3 feet per pupil in grades nine through twelve.

4 5. For a school district that provides instruction to more than four
5 hundred and up to one thousand pupils in grades nine through twelve, one
6 hundred twenty square feet per pupil in grades nine through twelve or fifty
7 thousand square feet, whichever is more.

8 6. For a school district that provides instruction to more than one
9 thousand and up to one thousand eight hundred pupils in grades nine through
10 twelve, one hundred twelve square feet per pupil in grades nine through
11 twelve or one hundred twenty thousand square feet, whichever is more.

12 7. For a school district that provides instruction to more than one
13 thousand eight hundred pupils in grades nine through twelve, ninety-four
14 square feet per pupil in grades nine through twelve or two hundred one
15 thousand six hundred square feet, whichever is more.

16 D. The school facilities board may modify the square footage
17 requirements prescribed in subsection C of this section or modify the amount
18 of monies awarded to cure the square footage deficiency pursuant to this
19 section for particular school districts based on extraordinary circumstances
20 for any of the following considerations:

21 1. The number of pupils served by the school district.

22 2. Geographic factors.

23 3. Grade configurations other than those prescribed in subsection C of
24 this section.

25 E. In measuring the square footage per pupil requirements of
26 subsection C of this section, the school facilities board shall:

27 1. Use the most recent one hundredth day average daily membership.

28 2. For each school, use the lesser of either:

29 (a) Total gross square footage.

30 (b) Student capacity multiplied by the appropriate square footage per
31 pupil prescribed by subsection C of this section.

32 3. Consider the total space available in all schools in use in the
33 school district, except that the school facilities board shall allow an
34 exclusion of the square footage for certain schools and the pupils within the
35 schools' boundaries if the school district demonstrates to the board's
36 satisfaction unusual or excessive busing of pupils or unusual attendance
37 boundary changes between schools.

38 4. Compute the gross square footage of all buildings by measuring from
39 exterior wall to exterior wall. Square footage used solely for district
40 administration, storage of vehicles and other nonacademic purposes shall be
41 excluded from the gross square footage.

42 5. Include all portable and modular buildings.

43 6. Include in the gross square footage new construction funded wholly
44 or partially by the school facilities board based on the square footage
45 funded by the school facilities board. If the new construction is to exceed
46 the square footage funded by the school facilities board, ~~then~~ the excess

1 square footage shall not be included in the gross square footage if any of
2 the following ~~apply~~ APPLIES:

3 (a) The excess square footage was constructed before July 1, 2002 or
4 funded by a class B bond, impact aid revenue bond or capital outlay override
5 approved by the voters after August 1, 1998 and before June 30, 2002 or
6 funded from unrestricted capital outlay expended before June 30, 2002.

7 (b) The excess square footage of new school facilities does not exceed
8 twenty-five per cent of the minimum square footage requirements pursuant to
9 subsection C of this section.

10 (c) The excess square footage of expansions to school facilities does
11 not exceed twenty-five per cent of the minimum square footage requirements
12 pursuant to subsection C of this section.

13 7. Require that excess square footage that is constructed after July
14 1, 2002 and that is not excluded pursuant to paragraph 6 of this subsection
15 meets the minimum school facility adequacy guidelines in order to be eligible
16 for building renewal monies as computed in section 15-2031.

17 F. The school facilities board shall adopt rules establishing minimum
18 school facility adequacy guidelines. The executive director of the school
19 facilities board shall report monthly to the joint committee on capital
20 review on the progress of the development of the proposed rules establishing
21 the guidelines. The joint committee on capital review shall review the
22 proposed guidelines before the school facilities board adopts the rules to
23 establish the minimum school facility adequacy guidelines. The guidelines
24 shall provide the minimum quality and quantity of school buildings and
25 facilities and equipment necessary and appropriate to enable pupils to
26 achieve the academic standards pursuant to section 15-203, subsection A,
27 paragraphs 12 and 13 and sections 15-701 and 15-701.01. At a minimum, the
28 school facilities board shall address all of the following in developing
29 these guidelines:

- 30 1. School sites.
- 31 2. Classrooms.
- 32 3. Libraries and media centers, or both.
- 33 4. Cafeterias.
- 34 5. Auditoriums, multipurpose rooms or other multiuse space.
- 35 6. Technology.
- 36 7. Transportation.
- 37 8. Facilities for science, arts and physical education.
- 38 9. Other facilities and equipment that are necessary and appropriate
39 to achieve the academic standards prescribed pursuant to section 15-203,
40 subsection A, paragraphs 12 and 13 and sections 15-701 and 15-701.01.
- 41 10. Appropriate combinations of facilities or uses listed in this
42 section.

11. RENEWABLE ENERGY. THE GUIDELINES DEVELOPED PURSUANT TO THIS PARAGRAPH SHALL BE DEVELOPED NO LATER THAN JUNE 30, 2006 IN CONJUNCTION WITH THE ENERGY OFFICE OF THE DEPARTMENT OF COMMERCE. AT A MINIMUM, THE GUIDELINES SHALL REQUIRE THE USE OF SOLAR COOLING AND SOLAR HOT WATER HEATING METHODS INSTEAD OF CONVENTIONAL HEATING AND COOLING METHODS FOR ALL REPLACEMENTS AND UPGRADES OF HEATING AND COOLING EQUIPMENT IF THE SCHOOL FACILITIES BOARD DETERMINES THAT SOLAR REPLACEMENTS AND UPGRADES ARE APPROPRIATE FOR THAT PARTICULAR PROJECT. THE GUIDELINES SHALL REQUIRE THE SUPPLEMENTATION OF CONVENTIONAL ELECTRICAL SUPPLIES WITH SOLAR POWER IF THE SCHOOL FACILITIES BOARD DETERMINES THAT THIS TYPE OF SUPPLEMENTATION IS APPROPRIATE FOR THAT PARTICULAR PROJECT. THE SCHOOL FACILITIES BOARD MAY INCLUDE ADDITIONAL FORMS OF RENEWABLE ENERGY IN THE GUIDELINES. NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO DEEM A SCHOOL BUILDING IN A SCHOOL DISTRICT OUT OF COMPLIANCE OR DEFICIENT IN MEETING THE MINIMUM ADEQUACY GUIDELINES IF THE SCHOOL DISTRICT HAS NOT MET THE MINIMUM ADEQUACY GUIDELINES FOR THIS PARAGRAPH FOR A SCHOOL BUILDING COMPLETED BEFORE JUNE 30, 2006. BEGINNING JULY 1, 2006, SCHOOL DISTRICTS APPROVED FOR A NEW SCHOOL FACILITY PURSUANT TO SECTION 15-2041 SHALL COMPLY WITH THIS PARAGRAPH.

G. The board shall consider the facilities and equipment of the schools with the highest academic productivity scores, as prescribed in section 15-2002, subsection A, paragraph 9, subdivision (d), and the highest parent quality ratings in the establishment of the guidelines.

H. The school facilities board may consider appropriate combinations of facilities or uses in making assessments of and curing existing deficiencies pursuant to section 15-2002, subsection A, paragraph 1 and in certifying plans for new school facilities pursuant to section 15-2002, subsection A, paragraph 5.

I. For the purposes of this section, "student capacity" means the capacity adjusted to include any additions to or deletions of space, including modular or portable buildings at the school. The school facilities board shall determine the student capacity for each school in conjunction with each school district, recognizing each school's allocation of space as of July 1, 1998, to achieve the academic standards prescribed pursuant to section 15-203, subsection A, paragraphs 12 and 13 and sections 15-701 and 15-701.01.

Sec. 2. Section 15-2031, Arizona Revised Statutes, is amended to read:

15-2031. Building renewal fund; definitions

A. A building renewal fund is established consisting of monies appropriated by the legislature and monies credited to the fund pursuant to section 42-5030.01. The school facilities board shall administer the fund and distribute monies to school districts for the purpose of maintaining the adequacy of existing school facilities. Monies in the fund are continuously appropriated and are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

B. The school facilities board shall inventory and inspect all school buildings in this state in order to develop a database to administer the

1 building renewal formula. The database shall include the student capacity of
2 the building as determined by the school facilities board. The board shall
3 distribute monies from the building renewal fund to school districts in an
4 amount computed pursuant to subsection G of this section. A school district
5 that receives monies from the building renewal fund shall use the monies
6 primarily for any buildings in the database developed or created under
7 subsection D of this section and secondly for any other buildings owned by
8 the school district for any of the following:

9 1. Major renovations and repairs of a building. ALL RENOVATIONS AND
10 REPAIRS PERFORMED PURSUANT TO THIS PARAGRAPH SHALL BE IN ACCORDANCE WITH THE
11 GUIDELINES DEVELOPED PURSUANT TO SECTION 15-2011, SUBSECTION F, PARAGRAPH 11.

12 2. Upgrading systems and areas that will maintain or extend the useful
13 life of the building. ALL UPGRADES PERFORMED PURSUANT TO THIS PARAGRAPH
14 SHALL BE IN ACCORDANCE WITH THE GUIDELINES DEVELOPED PURSUANT TO SECTION
15 15-2011, SUBSECTION F, PARAGRAPH 11.

16 3. Infrastructure costs, INCLUDING THE COST OF INSTALLING SOLAR
17 EQUIPMENT PURSUANT TO SECTION 15-2011, SUBSECTION F, PARAGRAPH 11.

18 4. Relocation and placement of portable and modular buildings.

19 C. Monies received from the building renewal fund shall not be used
20 for any of the following purposes:

21 1. New construction.

22 2. Remodeling interior space for aesthetic or preferential reasons.

23 3. Exterior beautification.

24 4. Demolition.

25 5. The purchase of soft capital items pursuant to section 15-962,
26 subsection D.

27 6. Routine maintenance except as provided in section 15-2002,
28 subsection K and subsection J of this section.

29 D. The school facilities board shall maintain the building renewal
30 database and use the database for the computation of the building renewal
31 formula distributions. The board shall ensure that the database is updated
32 on at least an annual basis to reflect changes in the ages and value of
33 school buildings. The facilities listed in the database shall include only
34 those buildings that are owned by school districts that are required to meet
35 academic standards. Each school district shall report to the school
36 facilities board no later than September 1 of each year the number and type
37 of school buildings owned by the district, the square footage of each
38 building, the age of each building, the nature of any renovations completed
39 and the cost of any renovations completed. The school facilities board may
40 review or audit, or both, to confirm the information submitted by a school
41 district. The board shall adjust the age of each school facility in the
42 database whenever a building is significantly upgraded or remodeled. The age
43 of a building that has been significantly upgraded or remodeled shall be
44 recomputed as follows:

45 1. Divide the cost of the renovation by the building capacity value of
46 the building determined in subsection G, paragraph 3 of this section.

2. Multiply the quotient determined in paragraph 1 of this subsection by the currently listed age of the building in the database.

3. Subtract the product determined in paragraph 2 of this subsection from the currently listed age of the building in the database, rounded to the nearest whole number. If the result is negative, use zero.

E. The school facilities board shall submit an annual report to the president of the senate, the speaker of the house of representatives, the Arizona state library, archives and public records and the governor by October 1 that includes the computation of the amount of monies to be distributed from the building renewal fund for the current fiscal year. The joint committee on capital review shall review the school facilities board's calculation of the building renewal fund distributions. After the joint committee on capital review reviews the distributions computed by the school facilities board, the school facilities board shall distribute the monies from the building renewal fund to school districts in two equal installments in November and May of each year.

F. School districts that receive monies from the building renewal fund shall establish a district building renewal fund and shall use the monies in the district building renewal fund only for the purposes prescribed in subsection B of this section. Ending cash balances in a school district's building renewal fund may be used in following fiscal years for building renewal pursuant to subsection B of this section. By October 15 of each year, each school district shall report to the school facilities board the projects funded at each school in the previous fiscal year with monies from the district building renewal fund, an accounting of the monies remaining in the district building renewal fund at the end of the previous fiscal year and a comprehensive five-year plan that details the proposed use of building renewal monies. If a school district fails to submit the report by October 15, the school facilities board shall withhold building renewal monies from the school district until the school facilities board determines that the school district has complied with the reporting requirement. When the school facilities board determines that the school district has complied with the reporting requirement, the school facilities board shall restore the full amount of withheld building renewal monies to the school district.

G. Notwithstanding any other provision of this chapter, if a school district converts space that is listed in the database maintained pursuant to this section to space that will be used for administrative purposes, the school district is responsible for any costs associated with the conversion, maintenance and replacement of that space. The building renewal amount for each school building shall be computed as follows:

1. Divide the age of the building as computed pursuant to subsection D of this section by one thousand two hundred seventy-five or, in the case of modular or portable buildings, by two hundred ten.

2. Multiply the quotient determined in paragraph 1 of this subsection by 0.67.

3. Determine the building capacity value as follows:

(a) Multiply the student capacity of the building by the per student square foot capacity established by section 15-2041.

(b) Multiply the product determined in subdivision (a) ~~of this paragraph~~ by the cost per square foot established by section 15-2041.

4. Multiply the product determined in paragraph 2 of this subsection by the product determined in paragraph 3, subdivision (b) of this subsection.

H. If the school facilities board determines that a school district has spent monies from the building renewal fund for purposes other than those prescribed in subsection B of this section, the school facilities board shall notify the superintendent of public instruction. Notwithstanding any other law, the superintendent of public instruction shall withhold a corresponding amount from the monies that would otherwise be due the school district under the capital outlay revenue limit until these monies are repaid.

I. Beginning on July 1, 2002, a school district is not entitled to receive monies from the building renewal fund for any buildings that are to be replaced with new buildings that are funded with deficiencies corrections monies pursuant to section 15-2021. The replacement buildings are not eligible to receive building renewal funding until the fiscal year following the completion of the building.

J. Notwithstanding subsections B and C of this section, a school district may use eight per cent of the building renewal amount computed pursuant to subsection G of this section for routine preventative maintenance. The board, after consultation with maintenance specialists in school districts, shall provide examples of recommended services that are routine preventative maintenance.

K. A school district that uses building renewal monies for routine preventative maintenance shall use the building renewal monies to supplement and not supplant expenditures from other funds for the maintenance of school buildings. The auditor general shall prescribe a method for determining compliance with the requirements of this subsection. A school district, in connection with any audit conducted by a certified public accountant, shall also contract for an independent audit to determine whether the school district used building renewal monies to reduce the school district's existing level of routine preventative maintenance funding. The auditor general may conduct discretionary reviews of a school district that is not required to contract for an independent audit.

L. For the purposes of this section:

1. "Routine preventative maintenance" means services that are performed on a regular schedule at intervals ranging from four times a year to once every three years and that are intended to extend the useful life of a building system and reduce the need for major repairs.

2. "Student capacity" has the same meaning prescribed in section 15-2011.

Sec. 3. Section 34-452, Arizona Revised Statutes, is amended to read:

34-452. Solar design standards for state buildings; energy life cycle costing

1 A. Capital projects as defined in section 41-790 including buildings
2 THAT ARE designed and constructed by the department of administration, school
3 districts, community college districts and universities AND SCHOOL FACILITIES
4 BOARD PROJECTS THAT ARE DESIGNED AND CONSTRUCTED PURSUANT TO SECTIONS 15-2011
5 AND 15-2031 and containing over six thousand square feet shall include a
6 written evaluation of the following solar energy features:

- 7 1. Proper site orientation.
- 8 2. Utilization of active and passive solar energy systems for space
9 heating.
- 10 3. Utilization of solar water heating.
- 11 4. Utilization of solar daylighting devices as defined in section
12 44-1761.

13 B. Energy life cycle costing shall be used to evaluate all solar
14 energy and energy conservation design, equipment and materials that are
15 considered for constructing new state buildings and in the scheduled
16 remodeling of existing state buildings. Solar energy and energy conservation
17 design, equipment and materials shall be used if the simple payback is eight
18 years or less. If the useful life of a product is less than eight years, the
19 simple payback ~~shall be~~ IS equal to or less than the useful life of the
20 product.

21 C. ENERGY LIFE CYCLE COSTING SHALL BE USED TO EVALUATE ALL SOLAR WATER
22 HEATING AND WATER COOLING FACILITIES. SOLAR WATER HEATING AND WATER COOLING
23 FACILITIES SHALL BE USED IF THE SIMPLE PAYBACK IS TWELVE YEARS OR LESS. IF
24 THE USEFUL LIFE OF A PRODUCT IS LESS THAN TWELVE YEARS, THE SIMPLE PAYBACK IS
25 EQUAL TO OR LESS THAN THE USEFUL LIFE OF THE PRODUCT.

26 D. ALL SOLAR PHOTOVOLTAIC PROJECTS THAT ARE DESIGNED TO PROVIDE
27 ELECTRICITY TO SUPPLANT TRADITIONAL POWER SOURCES ARE EXEMPT FROM THE SIMPLE
28 PAYBACK REQUIREMENTS OF THIS SECTION.

29 ~~C.~~ E. The department of commerce energy office shall:

30 1. For each of the eight fiscal years after completion of the ~~project~~
31 PROJECTS THAT WERE SUBJECT TO SUBSECTION B OF THIS SECTION AND FOR EACH OF
32 THE TWELVE YEARS AFTER COMPLETION OF THE PROJECTS THAT WERE SUBJECT TO
33 SUBSECTION C OF THIS SECTION, determine energy and cost avoidance for solar
34 energy and energy conservation design, equipment and materials installed in
35 state buildings, using monitoring verification standards that are accepted by
36 the United States department of energy. Energy and cost avoidance amounts
37 shall be based on preinstallation or preconstruction baseline energy usage
38 versus energy usage after solar and other energy and resource efficient
39 design, materials or equipment are incorporated into the state building.

40 2. ~~Prior to~~ BEFORE calculating the energy and cost avoidance amounts,
41 present its methodology for doing so to the joint legislative budget
42 committee for review.

43 3. Report the amount determined in paragraph 1 of this subsection to
44 the governor's office of strategic planning and budgeting and the joint
45 legislative budget committee.

~~D.~~ F. The legislature shall appropriate from the fund or funds from which the maintenance and operation budget is derived the amount of the annual cost avoidance for each of the first eight fiscal years after completion of the ~~project~~ PROJECTS THAT WERE SUBJECT TO SUBSECTION B OF THIS SECTION AND FOR EACH OF THE TWELVE YEARS AFTER COMPLETION OF THE PROJECTS THAT WERE SUBJECT TO SUBSECTION C OF THIS SECTION as follows:

1. Until the amount of the cumulative annual cost avoidance is equal to the simple payback, no money shall be appropriated.

2. When the amount of the cumulative annual cost avoidance is greater than the simple payback, the appropriation is as follows:

(a) Forty per cent to the budget unit that operates the building to be used in the next fiscal year either to procure energy related equipment, supplies, disposal costs and capital improvements approved by the chief administrative officer of the agency or agencies and consistent with state and federal law or for purposes of any of the budget unit's programs as prescribed by law.

(b) Twenty per cent to the department of commerce for use by the energy office for verification and monitoring of energy conservation measures, project identification and implementation technical assistance.

~~E.~~ G. The amounts prescribed by subsection ~~D.~~ F of this section are intended to supplement and not supplant any appropriation for energy conservation projects. These amounts shall be identified by A footnote or other designation in the budget process as resulting from energy saving projects.

Sec. 4. Section 42-14155, Arizona Revised Statutes, is amended to read:

42-14155. Valuation of renewable energy equipment: definition

A. Through December 31, 2011, the department shall determine the valuation of taxable renewable energy equipment in the manner prescribed by this section.

B. The value of renewable energy equipment is twenty per cent of the depreciated cost of the equipment.

C. For the purposes of this section, "renewable energy equipment" means electric generation facilities, electric transmission, electric distribution, gas distribution or combination gas and electric transmission and distribution and transmission and distribution cooperative property that is located in this state, that is used or useful for the generation, storage, transmission or distribution of electric power, energy or fuel derived from solar, wind or other nonpetroleum renewable sources. ~~not intended for self-consumption, including~~ RENEWABLE ENERGY EQUIPMENT INCLUDES PROPERTY THAT USES SOLAR THERMAL WATER HEATING SYSTEMS AND materials and supplies and construction work in progress, but ~~excluding~~ EXCLUDES licensed vehicles and property valued under sections 42-14154 and 42-14156.

Sec. 5. Section 43-222, Arizona Revised Statutes, is amended to read:

43-222. Income tax credit review schedule

Each year the joint legislative income tax credit review committee shall review the following income tax credits:

1. In 2004, sections 43-1081.01, 43-1083, 43-1084 and 43-1170.01.
2. In 2005, sections 43-1087, 43-1088 and 43-1175.
3. In 2006, sections 43-1073, 43-1089, 43-1089.01, 43-1089.02, 43-1090, 43-1176 and 43-1181.
4. In 2007, sections 43-1077, 43-1078, 43-1079, 43-1080, 43-1165, 43-1166, 43-1167 and 43-1169.
5. In 2008, sections 43-1074.01, 43-1081, 43-1168, 43-1170 and 43-1178.
6. In 2009, sections 43-1076 and 43-1162.
7. IN 2010, SECTIONS 43-1083.01 AND 43-1182.

Sec. 6. Section 43-1021, Arizona Revised Statutes, is amended to read: 43-1021. Additions to Arizona gross income

In computing Arizona adjusted gross income, the following amounts shall be added to Arizona gross income:

1. A beneficiary's share of the fiduciary adjustment to the extent that the amount determined by section 43-1333 increases the beneficiary's Arizona gross income.
2. An amount equal to the "ordinary income portion" of a lump sum distribution that was excluded from federal adjusted gross income pursuant to section 402(d) of the internal revenue code.
3. The amount of interest income received on obligations of any state, territory or possession of the United States, or any political subdivision thereof, located outside the state of Arizona, reduced, for tax years beginning from and after December 31, 1996, by the amount of any interest on indebtedness and other related expenses that were incurred or continued to purchase or carry those obligations and that are not otherwise deducted or subtracted in arriving at Arizona gross income.
4. Annuity income received during the taxable year to the extent that the sum of the proceeds received from such annuity in all taxable years prior to and including the current taxable year exceeds the total consideration and premiums paid by the taxpayer. This paragraph applies only to those annuities with respect to which the first payment was received prior to December 31, 1978.
5. The excess of a partner's share of partnership taxable income required to be included under chapter 14, article 2 of this title over the income required to be reported under section 702(a)(8) of the internal revenue code.
6. The excess of a partner's share of partnership losses determined pursuant to section 702(a)(8) of the internal revenue code over the losses allowable under chapter 14, article 2 of this title.
7. The amount by which the adjusted basis of property described in this paragraph and computed pursuant to the internal revenue code exceeds the adjusted basis of such property computed pursuant to this title and the income tax act of 1954, as amended. This paragraph shall apply to all

1 property which is held for the production of income and which is sold or
2 otherwise disposed of during the taxable year, except depreciable property
3 used in a trade or business.

4 8. The amount of depreciation or amortization of costs of any capital
5 investment that is deducted pursuant to section 167 or 179 of the internal
6 revenue code by a qualified defense contractor with respect to which an
7 election is made to amortize pursuant to section 43-1024.

8 9. The amount of gain from the sale or other disposition of a capital
9 investment which a qualified defense contractor has elected to amortize
10 pursuant to section 43-1024.

11 10. Amounts withdrawn from the Arizona state retirement system, the
12 corrections officer retirement plan, the public safety personnel retirement
13 system, the elected officials' retirement plan or a county or city retirement
14 plan by an employee upon termination of employment before retirement to the
15 extent they were deducted in arriving at Arizona taxable income in any year.

16 11. That portion of the net operating loss included in federal adjusted
17 gross income which has already been taken as a net operating loss for Arizona
18 purposes or which is separately taken as a subtraction under the special net
19 operating loss transition rule.

20 12. Any nonitemized amount deducted pursuant to section 170 of the
21 internal revenue code representing contributions to an educational
22 institution which denies admission, enrollment or board and room
23 accommodations on the basis of race, color or ethnic background except those
24 institutions primarily established for the education of American Indians.

25 13. The amount paid as taxes on property in this state with respect to
26 which a credit is claimed under section 43-1078.

27 14. Amounts withdrawn from a medical savings account by the individual
28 during the taxable year computed pursuant to section 220(f) of the internal
29 revenue code and not included in federal adjusted gross income.

30 15. Any amount of agricultural water conservation expenses that were
31 deducted pursuant to the internal revenue code for which a credit is claimed
32 under section 43-1084.

33 16. The amount by which the depreciation or amortization computed under
34 the internal revenue code with respect to property for which a credit was
35 taken under section 43-1080 exceeds the amount of depreciation or
36 amortization computed pursuant to the internal revenue code on the Arizona
37 adjusted basis of the property.

38 17. The amount by which the adjusted basis computed under the internal
39 revenue code with respect to property for which a credit was claimed under
40 section 43-1080 and which is sold or otherwise disposed of during the taxable
41 year exceeds the adjusted basis of the property computed under section
42 43-1080.

43 18. The amount by which the depreciation or amortization computed under
44 the internal revenue code with respect to property for which a credit was
45 taken under either section 43-1081 or 43-1081.01 exceeds the amount of

1 depreciation or amortization computed pursuant to the internal revenue code
2 on the Arizona adjusted basis of the property.

3 19. The amount by which the adjusted basis computed under the internal
4 revenue code with respect to property for which a credit was claimed under
5 either section 43-1081 or 43-1081.01 and which is sold or otherwise disposed
6 of during the taxable year exceeds the adjusted basis of the property
7 computed under section 43-1081 or 43-1081.01, as applicable.

8 20. The deduction referred to in section 1341(a)(4) of the internal
9 revenue code for restoration of a substantial amount held under a claim of
10 right.

11 21. The amount by which a net operating loss carryover or capital loss
12 carryover allowable pursuant to section 1341(b)(5) of the internal revenue
13 code exceeds the net operating loss carryover or capital loss carryover
14 allowable pursuant to section 43-1029, subsection F.

15 22. Any amount deducted pursuant to section 170 of the internal revenue
16 code representing contributions to a school tuition organization or a public
17 school for which a credit is claimed under section 43-1089 or 43-1089.01.

18 23. Any amount deducted in computing Arizona gross income as expenses
19 for installing solar stub outs or electric vehicle recharge outlets in this
20 state with respect to which a credit is claimed pursuant to section 43-1090.

21 24. Any wage expenses deducted pursuant to the internal revenue code
22 for which a credit is claimed under section 43-1087 and representing net
23 increases in qualified employment positions for employment of temporary
24 assistance for needy families recipients.

25 25. Any amount deducted for conveying ownership or development rights
26 of property to an agricultural preservation district under section 48-5702
27 for which a credit is claimed under section 43-1081.02.

28 26. The amount of any depreciation allowance allowed pursuant to
29 section 167(a) of the internal revenue code to the extent not previously
30 added.

31 27. With respect to property for which an expense deduction was taken
32 pursuant to section 179 of the internal revenue code, the amount in excess of
33 twenty-five thousand dollars.

34 28. ANY AMOUNT DEDUCTED IN COMPUTING ARIZONA TAXABLE INCOME AS
35 DEPRECIATION FOR A SOLAR ENERGY DEVICE WITH RESPECT TO WHICH A CREDIT IS
36 CLAIMED PURSUANT TO SECTION 43-1083.01.

37 Sec. 7. Section 43-1083, Arizona Revised Statutes, is amended to read:

38 43-1083. Credit for solar energy devices

39 A. A credit is allowed against the taxes imposed by this title for
40 each resident who is not a dependent of another taxpayer for installing a
41 solar energy device, as defined in section 42-5001, during the taxable year
42 in the taxpayer's residence located in this state. EXCEPT FOR A RESIDENTIAL
43 PHOTOVOLTAIC POWER SYSTEM, the credit is equal to twenty-five per cent of the
44 cost of the device. THE CREDIT FOR A RESIDENTIAL PHOTOVOLTAIC POWER SYSTEM
45 IS EQUAL TO FIFTEEN PER CENT OF THE COST OF THE DEVICE.

1 B. EXCEPT FOR A RESIDENTIAL PHOTOVOLTAIC POWER SYSTEM, the maximum
 2 credit in a taxable year may not exceed one thousand dollars. THE MAXIMUM
 3 CREDIT IN A TAXABLE YEAR FOR A RESIDENTIAL PHOTOVOLTAIC POWER SYSTEM MAY NOT
 4 EXCEED THREE THOUSAND DOLLARS. The person who provides the solar energy
 5 device shall furnish the taxpayer with an accounting of the cost to the
 6 taxpayer.

7 C. ~~A THE taxpayer may claim the credit under this section only once~~
 8 ~~in a tax year and may not cumulate over different tax years~~ ACCUMULATE TOTAL
 9 tax credits under this section exceeding, in the aggregate, ~~one~~ FIVE thousand
 10 dollars ~~for~~ WITH RESPECT TO the same residence.

11 ~~G.~~ D. If the allowable tax credit exceeds the taxes otherwise due
 12 under this title on the claimant's income, or if there are no taxes due under
 13 this title, the amount of the claim not used to offset taxes under this title
 14 may be carried forward for not more than five consecutive taxable years as a
 15 credit against subsequent years' income tax liability.

16 ~~D.~~ E. A husband and wife who file separate returns for a taxable year
 17 in which they could have filed a joint return may each claim only one-half of
 18 the tax credit that would have been allowed for a joint return.

19 ~~E.~~ F. The credit allowed under this section is in lieu of any
 20 allowance for state tax purposes for exhaustion, ~~AND~~ wear and tear of the
 21 solar energy device under section 167 of the internal revenue code.

22 ~~F.~~ G. To qualify for the credit under this section the solar energy
 23 device and its installation shall meet the requirements of title 44, chapter
 24 11, article 11.

25 ~~G.~~ H. A solar hot water heater plumbing stub out that was installed
 26 by the builder of a house or dwelling unit before title was conveyed to the
 27 taxpayer does not qualify for a credit under this section, but the taxpayer
 28 may claim a credit for the device under section 43-1090 or 43-1176 under the
 29 circumstances, conditions and limitations prescribed by section 43-1090,
 30 subsection C or 43-1176, subsection C, as applicable.

31 Sec. 8. Title 43, chapter 10, article 5, Arizona Revised Statutes, is
 32 amended by adding section 43-1083.01, to read:

33 43-1083.01. Credit for commercial solar energy devices

34 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2004, A
 35 CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR INSTALLING ONE
 36 OR MORE SOLAR ENERGY DEVICES, AS DEFINED IN SECTION 42-5001, DURING THE
 37 TAXABLE YEAR FOR COMMERCIAL OR INDUSTRIAL PURPOSES IN THE TAXPAYER'S TRADE OR
 38 BUSINESS LOCATED IN THIS STATE.

39 B. EXCEPT FOR A PHOTOVOLTAIC POWER SYSTEM, THE AMOUNT OF THE CREDIT IS
 40 EQUAL TO TWENTY-FIVE PER CENT OF THE COST OF THE DEVICE OR FIVE THOUSAND
 41 DOLLARS, WHICHEVER IS LESS. THE AMOUNT OF THE CREDIT FOR A PHOTOVOLTAIC
 42 POWER SYSTEM IS EQUAL TO FIFTEEN PER CENT OF THE COST OF THE DEVICE OR TEN
 43 THOUSAND DOLLARS, WHICHEVER IS LESS.

44 C. THE PERSON WHO PROVIDES OR INSTALLS THE SOLAR ENERGY DEVICE SHALL
 45 FURNISH THE TAXPAYER WITH AN ACCOUNTING OF THE COST TO THE TAXPAYER.

D. THE TAXPAYER MAY NOT ACCUMULATE TOTAL TAX CREDITS UNDER THIS SECTION EXCEEDING, IN THE AGGREGATE, TWENTY-FIVE THOUSAND DOLLARS WITH RESPECT TO THE SAME BUILDING.

E. THE TAXPAYER MAY ELECT TO TRANSFER A CREDIT UNDER THIS SECTION TO THE PROJECT DEVELOPER OR THE PERSON WHO PAID FOR THE SOLAR ENERGY DEVICE. IF THE TAXPAYER ELECTS TO TRANSFER THE CREDIT, THE TAXPAYER SHALL DELIVER TO THE PROJECT DEVELOPER OR THE PERSON WHO PAID FOR THE SOLAR ENERGY DEVICE A WRITTEN STATEMENT THAT THE TAXPAYER HAS ELECTED NOT TO CLAIM THE CREDIT AND THAT THE PROJECT DEVELOPER OR THE PERSON WHO PAID FOR THE SOLAR ENERGY DEVICE MAY CLAIM THE CREDIT, SUBJECT TO THE CONDITIONS AND LIMITATIONS PRESCRIBED BY THIS SECTION. FOR THE PURPOSES OF THIS SUBSECTION, "PROJECT DEVELOPER" MEANS THE PARTY SELECTED BY THE BUILDING OWNER TO SUPPLY THE SOLAR ENERGY DEVICE THROUGH A PURCHASE CONTRACT.

F. IF THE ALLOWABLE CREDIT EXCEEDS THE TAXES OTHERWISE DUE UNDER THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS TITLE, THE AMOUNT OF THE CLAIM NOT USED TO OFFSET TAXES UNDER THIS TITLE MAY BE CARRIED FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE TAXABLE YEARS AS A CREDIT AGAINST SUBSEQUENT YEARS' INCOME TAX LIABILITY.

G. CO-OWNERS OF A BUSINESS, INCLUDING PARTNERS IN A PARTNERSHIP AND SHAREHOLDERS OF AN S CORPORATION AS DEFINED IN SECTION 1361 OF THE INTERNAL REVENUE CODE, MAY EACH CLAIM ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED UNDER THIS SECTION BASED ON THE OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS ALLOWED ALL SUCH OWNERS MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN ALLOWED A SOLE OWNER.

H. THE CREDIT ALLOWED UNDER THIS SECTION IS IN LIEU OF ANY ALLOWANCE FOR STATE TAX PURPOSES FOR EXHAUSTION AND WEAR AND TEAR OF THE SOLAR ENERGY DEVICE UNDER SECTION 167 OF THE INTERNAL REVENUE CODE.

Sec. 9. Section 43-1121, Arizona Revised Statutes, is amended to read:

43-1121. Additions to Arizona gross income; corporations

In computing Arizona taxable income for a corporation, the following amounts shall be added to Arizona gross income:

1. The amounts computed pursuant to section 43-1021, paragraphs 3 through 9, 12, 26 and 27.

2. The amount of dividend income received from corporations and allowed as a deduction pursuant to sections 243, 244 and 245 of the internal revenue code.

3. Taxes which are based on income paid to states, local governments or foreign governments and which were deducted in computing federal taxable income.

4. Expenses and interest relating to tax-exempt income on indebtedness incurred or continued to purchase or carry obligations the interest on which is wholly exempt from the tax imposed by this title. Financial institutions, as defined in section 6-101, shall be governed by section 43-961, paragraph 2.

5. Commissions, rentals and other amounts paid or accrued to a domestic international sales corporation controlled by the payor corporation

1 if the domestic international sales corporation is not required to report its
2 taxable income to this state because its income is not derived from or
3 attributable to sources within this state. If the domestic international
4 sales corporation is subject to article 4 of this chapter, the department
5 shall prescribe by rule the method of determining the portion of the
6 commissions, rentals and other amounts which are paid or accrued to the
7 controlled domestic international sales corporation and which shall be
8 deducted by the payor. "Control" for purposes of this paragraph means direct
9 or indirect ownership or control of fifty per cent or more of the voting
10 stock of the domestic international sales corporation by the payor
11 corporation.

12 6. Federal income tax refunds received during the taxable year to the
13 extent they were deducted in arriving at Arizona taxable income in a previous
14 year.

15 7. The amount of net operating loss taken pursuant to section 172 of
16 the internal revenue code.

17 8. The amount of exploration expenses determined pursuant to section
18 617 of the internal revenue code to the extent that they exceed seventy-five
19 thousand dollars and to the extent that the election is made to defer those
20 expenses not in excess of seventy-five thousand dollars.

21 9. Amortization of costs incurred to install pollution control devices
22 and deducted pursuant to the internal revenue code or the amount of deduction
23 for depreciation taken pursuant to the internal revenue code on pollution
24 control devices for which an election is made pursuant to section 43-1129.

25 10. The amount of depreciation or amortization of costs of child care
26 facilities deducted pursuant to section 167 or 188 of the internal revenue
27 code for which an election is made to amortize pursuant to section 43-1130.

28 11. Arizona state income tax refunds received, to the extent the amount
29 of the refunds is not already included in Arizona gross income, if a tax
30 benefit was derived by deduction of this amount in a prior year.

31 12. The amount paid as taxes on property in this state by a qualified
32 defense contractor with respect to which a credit is claimed under section
33 43-1166.

34 13. The loss of an insurance company that is exempt under section
35 43-1201 to the extent that it is included in computing Arizona gross income
36 on a consolidated return pursuant to section 43-947.

37 14. The amount by which the depreciation or amortization computed under
38 the internal revenue code with respect to property for which a credit was
39 taken under section 43-1169 exceeds the amount of depreciation or
40 amortization computed pursuant to the internal revenue code on the Arizona
41 adjusted basis of the property.

42 15. The amount by which the adjusted basis computed under the internal
43 revenue code with respect to property for which a credit was claimed under
44 section 43-1169 and which is sold or otherwise disposed of during the taxable
45 year exceeds the adjusted basis of the property computed under section
46 43-1169.

16. The amount by which the depreciation or amortization computed under the internal revenue code with respect to property for which a credit was taken under either section 43-1170 or 43-1170.01 exceeds the amount of depreciation or amortization computed pursuant to the internal revenue code on the Arizona adjusted basis of the property.

17. The amount by which the adjusted basis computed under the internal revenue code with respect to property for which a credit was claimed under either section 43-1170 or 43-1170.01 and which is sold or otherwise disposed of during the taxable year exceeds the adjusted basis of the property computed under section 43-1170 or 43-1170.01, as applicable.

18. The deduction referred to in section 1341(a)(4) of the internal revenue code for restoration of a substantial amount held under a claim of right.

19. The amount by which a capital loss carryover allowable pursuant to section 1341(b)(5) of the internal revenue code exceeds the capital loss carryover allowable pursuant to section 43-1130.01, subsection F.

20. Any amount deducted in computing Arizona taxable income as expenses for installing solar stub outs or electric vehicle recharge outlets in this state with respect to which a credit is claimed pursuant to section 43-1176.

21. Any wage expenses deducted pursuant to the internal revenue code for which a credit is claimed under section 43-1175 and representing net increases in qualified employment positions for employment of temporary assistance for needy families recipients.

22. Any amount of expenses that were deducted pursuant to the internal revenue code and for which a credit is claimed under section 43-1178.

23. Any amount deducted for conveying ownership or development rights of property to an agricultural preservation district under section 48-5702 for which a credit is claimed under section 43-1180.

24. The amount of any deduction that is claimed in computing Arizona gross income and that represents a donation of a school site for which a credit is claimed under section 43-1181.

25. ANY AMOUNT DEDUCTED IN COMPUTING ARIZONA TAXABLE INCOME AS DEPRECIATION FOR A SOLAR ENERGY DEVICE WITH RESPECT TO WHICH A CREDIT IS CLAIMED PURSUANT TO SECTION 43-1182.

Sec. 10. Title 43, chapter 11, article 6, Arizona Revised Statutes, is amended by adding section 43-1182, to read:

43-1182. Credit for commercial solar energy devices

A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2004, A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR INSTALLING ONE OR MORE SOLAR ENERGY DEVICES, AS DEFINED IN SECTION 42-5001, DURING THE TAXABLE YEAR FOR COMMERCIAL OR INDUSTRIAL PURPOSES IN THE TAXPAYER'S TRADE OR BUSINESS LOCATED IN THIS STATE.

B. EXCEPT FOR A PHOTOVOLTAIC POWER SYSTEM, THE AMOUNT OF THE CREDIT IS EQUAL TO TWENTY-FIVE PER CENT OF THE COST OF THE DEVICE OR FIVE THOUSAND DOLLARS, WHICHEVER IS LESS. THE AMOUNT OF THE CREDIT FOR A PHOTOVOLTAIC

POWER SYSTEM IS EQUAL TO FIFTEEN PER CENT OF THE COST OF THE DEVICE OR TEN THOUSAND DOLLARS, WHICHEVER IS LESS.

C. THE PERSON WHO PROVIDES OR INSTALLS THE SOLAR ENERGY DEVICE SHALL FURNISH THE TAXPAYER WITH AN ACCOUNTING OF THE COST TO THE TAXPAYER.

D. THE TAXPAYER MAY NOT ACCUMULATE TOTAL TAX CREDITS UNDER THIS SECTION EXCEEDING, IN THE AGGREGATE, TWENTY-FIVE THOUSAND DOLLARS WITH RESPECT TO THE SAME BUILDING.

E. THE TAXPAYER MAY ELECT TO TRANSFER A CREDIT UNDER THIS SECTION TO THE PROJECT DEVELOPER OR THE PERSON WHO PAID FOR THE SOLAR ENERGY DEVICE. IF THE TAXPAYER ELECTS TO TRANSFER THE CREDIT, THE TAXPAYER SHALL DELIVER TO THE PROJECT DEVELOPER OR THE PERSON WHO PAID FOR THE SOLAR ENERGY DEVICE A WRITTEN STATEMENT THAT THE TAXPAYER HAS ELECTED NOT TO CLAIM THE CREDIT AND THAT THE PROJECT DEVELOPER OR THE PERSON WHO PAID FOR THE SOLAR ENERGY DEVICE MAY CLAIM THE CREDIT, SUBJECT TO THE CONDITIONS AND LIMITATIONS PRESCRIBED BY THIS SECTION. FOR THE PURPOSES OF THIS SUBSECTION, "PROJECT DEVELOPER" MEANS THE PARTY SELECTED BY THE BUILDING OWNER TO SUPPLY THE SOLAR ENERGY DEVICE THROUGH A PURCHASE CONTRACT.

F. IF THE ALLOWABLE CREDIT EXCEEDS THE TAXES OTHERWISE DUE UNDER THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS TITLE, THE AMOUNT OF THE CLAIM NOT USED TO OFFSET TAXES UNDER THIS TITLE MAY BE CARRIED FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE TAXABLE YEARS AS A CREDIT AGAINST SUBSEQUENT YEARS' INCOME TAX LIABILITY.

G. CO-OWNERS OF A BUSINESS, INCLUDING CORPORATE PARTNERS IN A PARTNERSHIP, MAY EACH CLAIM ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED UNDER THIS SECTION BASED ON THE OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS ALLOWED ALL SUCH OWNERS MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN ALLOWED A SOLE OWNER.

H. THE CREDIT ALLOWED UNDER THIS SECTION IS IN LIEU OF ANY ALLOWANCE FOR STATE TAX PURPOSES FOR EXHAUSTION AND WEAR AND TEAR OF THE SOLAR ENERGY DEVICE UNDER SECTION 167 OF THE INTERNAL REVENUE CODE.

Sec. 11. Purpose

Pursuant to section 43-223, Arizona Revised Statutes, the legislature enacts sections 43-1083.01 and 43-1182, Arizona Revised Statutes, as added by this act, to encourage taxpayers to install solar energy devices in their businesses that are located in this state.

Sec. 12. Retroactivity

A. Sections 42-14155, 43-222, 43-1021, 43-1083 and 43-1121, Arizona Revised Statutes, as amended by this act, are effective retroactively to tax years beginning from and after December 31, 2004.

B. Sections 43-1083.01 and 43-1182, Arizona Revised Statutes, as added by this act, are effective retroactively to tax years beginning from and after December 31, 2004.

Sec. 13. Effective date

Section 15-2031, Arizona Revised Statutes, as amended by this act, is effective from and after June 30, 2006.